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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BILLY BARNES,

U.S. DISTRICT COURT

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JUL 20 12 00

Plaintiff,

-against-

P.M. \_\_\_\_\_  
TIME A.M. \_\_\_\_\_STIPULATION AND ORDER  
OF SETTLEMENT AND  
DISCONTINUANCECITY OF NEW YORK, POLICE OFFICERS  
BADOLATO AND MARIA M. LARSON, TAX REG  
#898472 and UNIDENTIFIED NEW YORK CITY  
POLICE OFFICERS, EMPLOYEES AND AGENTS

CV 04-1562 (ARR)(JMA)

Defendants.

WHEREAS, plaintiff commenced this action by filing a complaint on or about April 15, 2004, alleging that certain of his federal and state rights were violated; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, defendant City of New York served a Rule 68 Offer of Judgment on August 2, 2005;

WHEREAS, plaintiff accepted defendant's Rule 68 Offer on August 2, 2005;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff BILLY BARNES the sum of FIFTEEN THOUSAND AND ONE DOLLARS (\$15,001) and Fred Lichtmacher, Esq., the sum of SEVEN THOUSAND ONE HUNDRED DOLLARS (\$7,100) as attorneys fees, in full satisfaction of all claims, including claims for costs, expenses, and attorney fees. In consideration for the payment of these sums, plaintiff agrees to the dismissal of all the claims against the named defendants, the City of New York, Maria Larson, and Anthony Badolato (sued herein as "Police Officer Badolato") with prejudice, and to release all defendants, including the defendants named herein as "UNIDENTIFIED NEW YORK CITY POLICE OFFICERS, EMPLOYEES AND AGENTS," and any present or former employees or agents of the City of New York, and the New York City Police Department, from any and all liability, claims, or rights of action under state or federal law arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

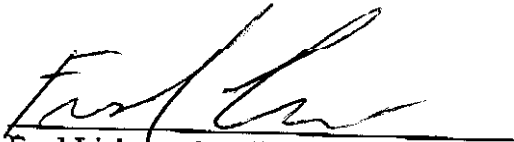
5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York, or the New York City Police Department.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
August 25, 2005

Fred Lichtmacher, Esq.  
Attorney for plaintiff  
60 East 42<sup>nd</sup> Street, Suite 2001  
New York, NY 10165  
(212) 922-9066

By:

  
Fred Lichtmacher, Esq. (FL 5341)

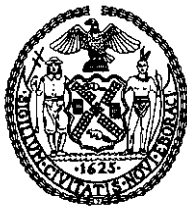
MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendants  
100 Church Street, Room 3-206  
New York, New York 10007  
(212) 788-0991

By:

  
Michael Chestnov (MC 0443)  
Assistant Corporation Counsel

SO ORDERED:

  
HON. ALLYNE R. ROSS, U.S.D.J.



**MICHAEL A. CARDOZO**  
*Corporation Counsel*

**THE CITY OF NEW YORK**  
**LAW DEPARTMENT**  
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NEW YORK, NY 10007

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August 30, 2005

**BY HAND**

Honorable Allyne R. Ross  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Billy Barnes v. City of New York et al  
CV 04-1562 (ARR)(JMA)

Your Honor:

As the Court may recall, I am the attorney in the Special Federal Litigation Division of the New York City Law Department assigned to the defense of the above matter. In that capacity, I write to inform the Court that the parties have reached a settlement. Accordingly, defendants respectfully submit the enclosed stipulation and order of settlement and dismissal, executed by counsel for both parties, for the Court's endorsement.

I thank the Court for its time and consideration in this matter.

Respectfully submitted,

Michael Chestnov (MC 0443)  
Assistant Corporation Counsel  
Special Federal Litigation Division

enc.

cc: Fred Lichtmacher, Esq., attorney for plaintiff (by fax)

Honorable Joan M. Azrack, United States Magistrate Judge (by hand) (w/o enc.)